

## **REMARKS**

### **I. Examiner's Interview**

On December 29, 2008, the undersigned attorney conducted a telephonic interview with Rodney P. Swartz, Ph.D., Primary Examiner. The Examiner agreed that amendment of claims 1 and 21 to incorporate the limitations of claims 6 and 26, respectively, would overcome the outstanding prior art rejections. The Examiner indicated that the aforementioned amendments would be entered. The Examiner is thanked for the courtesies extended during the interview.

### **II. Status of the Claims**

Claims 1 and 21 have been amended without prejudice or disclaimer to incorporate the limitations of claims 6 and 26 respectively. Claims 6 and 26 have been cancelled. Claims 7, 27 and 28 have been amended so their respective dependencies are consistent with the amendment of claims 1 and 21 and the cancellation of claims 6 and 26.

By this Amendment, no new matter has been added to the application.

### **III. Claim Objections/Rejections**

Pursuant to the Notice of Panel Decision from Pre-Appeal Brief Conference Review that was mailed on December 17, 2008, claims 6-9, 11, 12 and 26-32 stand objected to and claims 1-5, 10 and 21-25 stand rejected. During the aforementioned Dec. 29 interview, the Examiner agreed that the claim amendments set out in the present Amendment would overcome all outstanding rejections and the such amendments would be entered. Accordingly, the instant Amendment is believed to overcome all outstanding rejections. Reconsideration of the claims and withdrawal of all pending rejections is respectfully requested.

### **IV. Conclusion**

Applicant believes the application is in condition for allowance.

Dated: January 20, 2009

Respectfully submitted,

By /Mitchell Bernstein/  
Mitchell Bernstein  
Registration No.: 46,550  
DARBY & DARBY P.C.  
P.O. Box 770  
Church Street Station  
New York, New York 10008-0770  
(212) 527-7700  
(212) 527-7701 (Fax)  
Attorneys/Agents For Applicant